U.S. DISTRICT COURT AUGUSTA DIV.

IN THE UNITED STATES DISTRICT COURT

2018 SEP 20 AM 10: 40

FOR THE SOUTHERN DISTRICT OF GEORGIA

	AUGUSTA DIVISION	SO. DIST. OF CA.	
MIKE ARTHUR LAMBERT,)		
Petitioner,))		
v.) CV 118-102) (Formerly CI	CV 118-102 (Formerly CR 116-079)	
UNITED STATES OF AMERICA	,	,	
Respondent.)		

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed, (doc. no. 8). The Magistrate Judge recommended granting the motion filed pursuant to 28 U.S.C. § 2255 as to the request for an out-of-time appeal and dismissing the remainder of Petitioner's claims without prejudice. (See doc. no. 6.) Petitioner originally objected to the recommendation for dismissal without prejudice of certain claims, (doc. no. 8), but in a subsequent filing stated his consent to proceeding with the direct appeal, (doc. no. 10).

Accordingly, the Court **OVERRULES** Petitioner's objections and **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion. Therefore, the Court **GRANTS** Petitioner's § 2255 motion as to the out-of-time appeal and **DISMISSES** without prejudice all other claims raised in the § 2255 motion. The Court **VACATES** Petitioner's judgment in the underlying criminal case. (CR 116-079, doc. no. 44.) Simultaneous with the

entry of this Order, the Court is entering a new Judgment in a Criminal Case that reimposes the same sentence, identical in all respects to the original Judgment, save only for the date of entry.

The Court HEREBY ADVISES Petitioner that with the entry of the new Judgment, he shall have all the rights associated with an appeal from any criminal sentence. The Court also specifically advises Petitioner the entry of the new Judgment creates a fourteen-day period within which Petitioner may prosecute a direct appeal of his criminal conviction. Thus, Petitioner shall have fourteen days from the date of entry of the Judgment to file a notice of appeal. Attorney John Price has been appointed to represent Petitioner on direct appeal. (CR 116-079, doc. no. 58.)

Finally, the Court DIRECTS the Clerk to CLOSE this civil action and ENTER an appropriate final judgment in this civil case in favor of Petitioner.

SO ORDERED this day of September, 2018, at Augusta, Georgia.

UNITED STATES DISTRICT JUDGE